

# **Project Manual**

## **223 Mechanic Street Renovation Project**

**Marlborough, MA**

**Prepared for:  
City of Marlborough, MA**

**Prepared by:  
Bucchianeri Management Services, LLC**

**June 6, 2010**



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223 Mechanic Street Renovation Project  
Marlborough, MA

The Marlborough Community Development Authority, on behalf of the City of Marlborough, invites sealed bids for the Renovation of 223 Mechanic Street, Marlborough, MA in accordance with specifications prepared by Bucchianeri Management Services, LLC. The project includes, but is not limited to, renovations of interior surfaces and systems, flooring, painting, drywall, doors, plumbing, electrical, carpentry, and Massachusetts State Compliance Deleading. The estimated cost of this project is \$84,800.

Bids will be received on behalf of the City of Marlborough via mail: Marlborough Community Development Authority, 255 Main Street, suite 212, Marlborough, MA 01752  
in person at the Marlborough Community Development Authority, 255 Main Street, suite 209, Marlborough, MA 01752 until 2:00 PM prevailing time on July 14, 2010.

A mandatory bid showing walkthrough will be held at the project site at 223 Mechanic Street, Marlborough, MA 01752 at 10:00am June 30, 2010. Contractors must be present and sign in at the walkthrough to be eligible to bid on the project.

Bid documents may be obtained for a refundable fee of \$25/each (if returned in excellent condition within 10 days of bid opening) at the Marlborough Community Development Authority, 255 Main St., Suite 209, Marlborough, MA; by mail for an additional non-refundable fee of \$20/each; or for free at [www.marlborough-ma.gov](http://www.marlborough-ma.gov). Checks should be made payable to the City of Marlborough. In order to submit bids, contractors MUST ATTEND AND SIGN-IN at the pre-bid walk thru on the dates listed below at EACH property. Any bids received by contractors not signed in on the sign-in sheets will be rejected. *Bid documents will not be available at the walk thru.*

Each bid must be accompanied by a bid security consisting of a BID BOND, CASHIER's, TREASURER's or CERTIFIED CHECK issued by a responsible bank or trust company in the amount of 5 % of the bid price. Bid bonds shall be issued by a company qualified to do business in the Commonwealth.

The successful bidder must furnish a payment bond within 10 days of contract award, in an amount equal to fifty percent (50% )of the Contract price from a surety company qualified to do business in the Commonwealth of Massachusetts.

Bidders shall certify that they do not, and will not maintain or provide for their employees any facility that is segregated on the basis of race, color, creed, or national origin.

This project is funded in part through the Federal Neighborhood Stabilization Fund and the CDBG Program from the Massachusetts Department of Housing and Community Development and is subject to the regulations of that office and Title I of the Housing and Community Development Act of 1974 as amended. Neither the United States nor the Commonwealth of Massachusetts, or any of its departments, agencies, or employees is or will be a party to this Invitation to Bid or any resulting Contract.

Bidders on this project will be required to comply with all provisions of Executive Order No. 11246 (requirements for Affirmative Action and Equal Employment Opportunity), Massachusetts Wage Rates, Title VI of the Civil Rights Act of 1964, the Anti-Kickback Act, the Contract Work Hours Standards Act, regulations promulgated under the Occupational Safety and Health Act of 1970, and other applicable laws.

All bids for this project are subject to applicable public bidding laws of Massachusetts, including M.G.L. c. 149, sec 44A to 44L inclusive, as amended.

Attention of Bidders is directed to requirements as to conditions of employment to be observed, minimum wage rates to be paid under the contract and affirmative action to ensure equal employment opportunity. Wages paid to employees must also comply with the minimum established by the Department of Labor and Workforce Development and the weekly payroll record submittal requirement under the provisions of Massachusetts General Laws, c. 149, Section 26 through 27D inclusive. The contractor must comply with requirements of the Commonwealth of Massachusetts Disadvantaged Business Enterprise Program and Affirmative Action requirements in connection with Equal Employment Opportunities.

Selection of the contractor will be based upon bidder qualifications, including evidence of satisfactory past performance on similar projects, and bid price. The contract will be awarded to the bidder deemed by the Owner to be the lowest responsible and eligible bidder.

The City of Marlborough is an affirmative action/equal opportunity owner/purchaser.

The Bidder agrees that its Bid shall be good and may not be withdrawn for a period of 90 days, Saturdays, Sundays and legal holidays excluded, after the opening of the bids.

The City reserves the right to waive any informalities to accept or reject, in whole or in part any or all bids, or take whatever other action may be deemed to be in the best interest of the City.

City of Marlborough  
Community Development Department

## **INFORMATION TO BIDDERS**

### Marlborough Community Development Department

#### 1. Receipt and Opening of Bids

The City of Marlborough, Massachusetts, herein called the Owner, acting by and through its Marlborough Community Development Authority (MCDA), will receive sealed Bids for the Renovation of 223 Mechanic Street, Marlborough, MA. Such bids addressed to the Office of Community Development, 255 Main Street, suite 212, Marlborough, MA 01752, and clearly marked on the outside "Bid for the Renovation of 223 Mechanic Street, Marlborough, MA." will be received at the MCDA until 2:00 p.m. prevailing time, July 14, 2010, at which time and place said bids will be publicly opened and read aloud.

Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified will not be considered. The bidder agrees that this bid shall be good and may not be withdrawn for a period of 90 days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids.

#### 2. Location and Work to be Done

The work consists of The Renovations of 223 Mechanic Street, as more described in attached contract specifications. There will be a mandatory site walkthrough at 223 Mechanic Street, Marlborough, MA 01752 at 10:00 am prevailing time on June 30, 2010.

The Contractor shall furnish all labor, services, materials, equipment, plant, machinery apparatus, appliances, tools, supplies, and all other things necessary to do all work required for the completion of each item of Work and as herein specified.

The Work to be done and paid for under any item shall not be limited to the exact extent mentioned or described but shall include work necessary or customarily done for the completion of that item.

#### 3. Preparation of Bid

Each bid must be submitted on prescribed form. All blank spaces for bid prices must be filled in, ink or type written, in both words and figures.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and endorsed with the name of the project as specified in Receipt and Opening of Bids, above.

If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in Receipt and Opening of Bids, above.

#### 4. Bid Opening Procedure

The following is a list of requirements shall apply to each filed bid. Bids not meeting all the requirements for timeliness and security will be rejected without opening; bids not meeting signature and addenda requirements will be rejected without prior checking of bid amounts.

Bids shall be filed at the place and before the time specified in Receipt and Opening of Bids, above.

Properly executed bid security shall be placed in a sealed envelope and shall be attached to the outside of the envelope containing the bid.

Bid signatures will be checked.

All addenda will be sent certified mail, with return receipt requested, to all prospective bidders and the last of which will be mailed no later than five days prior to the date established for submission of bids.

All bidders shall include with their bids the written acknowledgement form provided in the FORM OF GENERAL BID.

The total dollar amount of each bid will be read, and three apparent lowest bids will be selected for further consideration. These three apparent low bids will be read aloud for the benefit of the other bidders and the bid opening procedure will be closed. All those present at the bid opening may examine all bids after the bid opening and after the reading of the three apparent low bids.

5. Telegraphic Modifications

Any bidder may modify his bid by telegraphic communications at any time prior to the scheduled closing time for receipt of bids, provided such telegraphic communications is received by the Owner prior to the closing time, and, provided further, the Owner is satisfied that a written confirmation of the telegraphic modification over the signature of the bidder was mailed prior to the closing time.

The telegraphic communication shall not reveal the bid price but shall provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not received within two days from the closing time, no consideration will be given to the telegraphic communication.

6. Ability and Experience of Bidder

No award will be made to any bidder who cannot satisfy the Owner that he has sufficient ability and experience in this class of work and sufficient capital and plant to enable him to prosecute and complete the work successfully within the time named. The owner's decision or judgment on these matters will be final, conclusive, and binding.

The Owner may make such investigations as he deems necessary, and the bidder shall furnish to the Owner, under oath if so required, all such information and data for this purpose as the Owner may request.

7. Conditions of Work

Each bidder must familiarize himself fully with the conditions relating to the successful completion of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

8. Addenda and Interpretations

No interpretation of the meaning of the plans, specifications or other provided documents will be made to any bidder orally. All information given to bidders other than by means of the plans, specifications, or by addenda, as described below, is given informally and shall not be used as the basis of a claim against the Owner.

Every request for such interpretation should be in writing addressed to the MCDA, 255 Main Street, suite 212, Marlborough, MA 01752, and to be given consideration must be received at least seven (7) days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, when issued, will be made by certified mail with return receipt requested to all prospective bidders (at the respective address furnished by them for such purposes), not later than five (5) days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.

9. Security for Faithful Performance

Simultaneously with his delivery of the executed Contract, the Contractor shall furnish surety bond or bonds as security for faithful payment of all persons performing labor and providing materials under this contract as specified in the GENERAL CONDITIONS included herein. The surety on such bond or bonds shall be by a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the Owner. The bonds shall remain in force for one year after final acceptance of the work by Owner, unless, in writing, releases the Contractor from obligation sooner.

10. Power of Attorney

Attorneys-in-fact who sign Contract bonds must file each bond a certified and effectively dated copy of their power of attorney.

11. Laws and Regulations

The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances or bylaws, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the Contract the same as though herein out in full. Attention is directed to CONTRACT FORMS and to other applicable sections of this specification.

12. Liquidated Damages for Failure to Enter into Contract

The successful bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within 10 days after he/she has received notice of the acceptance of his/her bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, a portion of security deposited with his/her bid but the amount forfeited shall not exceed the difference between his/her bid price and the bid price of the next lowest responsible and eligible bidder. In case of death, disability, bona fide clerical or mechanical error of a substantial nature, or other similar unforeseen circumstances affecting the bidder, his/her bid deposit will be returned.

13. Obligation of Bidder

At the time of the bids each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the Contract Documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect of his bid.

14. Information Not Guaranteed

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of bidders and is not guaranteed.

It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.

It is further agreed and understood that no bidder or Contractor shall use or be entitled to use any of the information made available to him or obtained in any examination made by him in any manner as a basis of or ground for any claim or demand against the Owner or the Engineer, arising from or by reason of any variance which may exist between the information made available and actual subsurface or other

structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

15. Bid Security

Each bid must be accompanied by certified check, a bid bond, a treasurer's or cashier's check, payable to the Owner, in the amount stated in the INVITATION TO BID. Such checks will be returned to all except the three lowest responsible and eligible bidders within five days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids, and the remaining check will be returned promptly after the Owner and the accepted bidder have executed the Contract, or if no notice of intent to award has been presented to the sealed contractor within 90 days, Saturdays, Sundays, and legal holidays excluded, after the date of the opening of bids upon demand of the bidder at any time thereafter.

16. Right to Reject Bid

The Owner reserves the right to waive any informalities or reject any all bids, should the owner deem it to be in the public interest to do so.

The owner may also reject bids which in its sole judgment are incomplete, conditional, obscure or not responsive or which contain additions not called for, erasures not properly initialed, alterations, or similar irregularities, or Owner may waive such omissions, conditions or irregularities.

17. Time for Completion

The bidder must agree to commence work immediately upon contract signing and to fully complete the project within the time limit stated in the FORM FOR GENERAL BID.

18. Comparison of Bids

Bids will be compared on the basis of the lump sum prices set forth in the bid forms.

In the event that there is a discrepancy in the FORM FOR GENERAL BID between the lump sum or unit prices written in words and figures, the prices written in words will govern.

The owner agrees to examine and consider each FORM FOR GENERAL BID submitted in consideration of the qualifications of the bidder and the bidder's agreements, as herein above set forth and as set forth in the FORM FOR GENERAL BID.

19. Award of Contract

The Contract will be awarded to "the lowest responsible and eligible bidder." Such a bidder shall possess the skill, ability and integrity necessary for the faithful performance of the work, shall be able to furnish labor that can work in harmony with all other elements of labor employed, or to be employed, in the work, and shall otherwise comply with all applicable provisions of law.

20. Statutes Regulating Competitive Bidding

Any bid which does not comply with the provisions of Massachusetts General Laws Chapter 149, Sections 44A through 44L, as amended and applicable, need not be accepted and the Owner may reject every such bid.

21. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of the Department of Labor and Industries under the provision of the Massachusetts General Laws, Chapter 149, Section 26 to



27G, as amended, apply to the project. It is the responsibility of the contractor, before bid opening, to request if necessary, any additional information on Prevailing Wage Rates for those trades people who may be employed for the proposed work under this contract. Because this project is federally funded, prevailing wage rates shall apply to the 223 Mechanic Street project. State schedules of Prevailing wage rates are provided in the appendix.

22. Contractor Records

The Contractor shall comply with the provisions of Massachusetts General Laws, Chapter 30, section 39, and all other applicable Federal, State and Local Laws and Regulations concerning Contractor records.

23. Insurance

The Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified in the Supplemental General Conditions and in such form as shall protect him while performing work covered by the Contract, or the City of Marlborough and its employees, agents and officials, from all claims and liability for damages or bodily injury, including accidental death, and for property damage, which may arise from operations under this Contract. The Contractor covenants and agrees to hold the City and its employees, agents and officials harmless from loss or damage due to claims for personal injury and/or property damage or damage due to claims for personal injury and/or property damage arising from, or in connection with operations under this Contract.

24. Affirmative Action/Equal Employment Opportunity Laws and Regulations

Marlborough is an affirmative action/equal opportunity owner/purchaser. The bidder's attention is directed to all applicable State Laws, City Bylaws, and rules and regulations regarding affirmative action/equal employment opportunity requirements. Failure of the bidder to comply with any such law, bylaw, rule or regulation shall constitute grounds for the City to reject a bid or to otherwise reject or terminate the award of the contract pursuant to these contract documents.

## **INSTRUCTIONS TO BIDDERS**

### **ARTICLE 1 – BIDDING PROCEDURE**

- 1.1 Bids for the Work are subject to the provisions of General Laws Chapter 149, Sections 44A-44M inclusive, as amended, and Chapter 30, Section 39M, as amended. Regulations governing bidding procedure as set forth in above-mentioned General Laws must be followed.
- 1.2 In the event of any inconsistencies between any of the provisions of these Bidding Documents, and of the cited statute, anything herein to the contrary notwithstanding, the provisions of the said statute shall control.

### **ARTICLE 2 – PERMITS**

- 2.1 It is the policy of the City of Marlborough that Contractors shall apply for and obtain all building, plumbing, gas, electrical and all other permits in full accord with the General Laws and the applicable codes.

### **ARTICLE 3 – WAGES OF LABOR**

- 3.1 In conformity with the provisions of the Labor Laws of the Commonwealth of Massachusetts, the minimum wages for a day's work paid to craftsmen, teamsters, mechanics and laborers shall not be less than those established by a schedule which has been prepared by the Department of Labor and Workforce Development and which is included in the contract conditions. The City and Bucchianeri Mgt. Services assume no responsibility for the accuracy of the rates set forth in this schedule and no claims for additional compensation will be considered because of any inaccuracy in the rates set forth herein.
- 3.2 All bidders on this project will be required to comply with all provisions of Executive Order No. 11246 as amended (requirements for Affirmative Action and Equal Employment Opportunity), Massachusetts Prevailing Wage Rates, Title VI of the Civil Rights Act of 1964, the Anti-Kickback Act, the Contract Work Hours Standards Act, regulations promulgated under the Occupational Safety Act of 1970, and other applicable laws.

### **ARTICLE 4 – PAYMENTS TO CONTRACTORS**

- 4.1 Payments to the Contractor shall be made in accordance with the provisions of Section 39K of Chapter 30 of the General Laws and as specified hereinafter in the section entitled "Wage Rate Requirements."

### **ARTICLE 5 – CONTRACT COMPLETION**

- 5.1 Bidder hereby agrees to commence work under this contract immediately upon contract signing and to fully complete the project as stipulated in the Owner and Contractor Agreement Article 2 TIME OF COMPLETION. Bidder further agrees to pay as liquidated damages the sum of \$250 for each consecutive calendar day thereafter.

## **ARTICLE 6 – INSURANCE**

- 6.1 Reference is made to the sections entitled “General Conditions of the Contract for Construction” and “Special Supplementary Conditions” for provisions pertaining to insurance.

## **ARTICLE 7 – MASSACHUSETTS SALES TAX**

- 7.1 The Massachusetts Sales Tax does not apply to materials purchased for contracts with the United States, the Commonwealth of Massachusetts, or any political subdivision thereof, or their respective agencies.

## **ARTICLE 8 – EQUAL OPPORTUNITY, AFFIRMATIVE ACTION REQUIREMENTS**

- 8.1 Federal Equal Opportunity and Affirmative Action Requirements apply. Refer to the section entitled “Supplemental EEO/AA Information.”

## **ARTICLE 9 – LABOR SAFETY AND HEALTH REGULATIONS**

- 9.1 The successful bidder shall comply with the Department of Labor’s Safety and Health Regulations for Construction promulgated under the Occupational Safety and Health Act of 1970 (PBS-91-596) and under Section 107 of the Contract Work Hours and Safety Standards Act (PC-91-54).
- 9.2 The successful bidder shall have a competent person, or persons, as required under the Occupational Safety and Health Act, on the site to inspect the work and to supervise the conformance of the work with the regulations of the Act.
- 9.3 This project is subject to the safety and health regulations of the US Department of Labor set forth in 29 CFR, Part 1926, and to the Massachusetts Department of Labor and Workforce Development Division of Occupational Safety “Rules and Regulations for the Prevention of Accidents in Construction Operations” (Industrial Bulletin No. 12). Contractors shall be familiar with the requirements of these regulations.

## **ARTICLE 10 – ACCESS TO THE SITE**

- 10.1 Representatives of the grant awarding authority and the Commonwealth of Massachusetts shall have access to the work wherever it is in preparation or progress and the successful Bidder shall provide proper facilities for such access and inspection.

## **ARTICLE 11 – MINORITY PROCUREMENT GOALS**

- 11.1 Under Massachusetts Executive Order 237, it is the policy of the Commonwealth to promote the fullest participation of all citizens in resources provided by municipal government. Therefore, the City invites participation of Minority and Women-Owned businesses in any and all parts of this Contract.

## **ARTICLE 12 – CONFLICT BETWEEN SPECIFICATIONS**

- 12.1 Wherever a conflict exists between these specifications, Bucchianeri Mgt. Services, LLC. shall make a ruling. If there is a grievance to this ruling, the Commonwealth of Massachusetts laws, rules or regulations, the laws or rules of the Commonwealth prevail.

### **ARTICLE 13 – CONTRACTOR’S RECORDS**

13.1 The Contractor shall comply with Massachusetts General Laws Chapter 30, section 39R as provided below:

13.1.1 The Contractor shall retain its records for at least seven (7) years from the date of final payment.

13.1.2 During this seven (7) year period, the Owner, the Inspector General, the Department of Housing and Community Development and the Deputy Commissioner of Planning and Operation shall have the right to inspect these records.

13.1.3 The Contractor shall notify the Awarding Authority of any changes in its bookkeeping and related matters, with a CPA letter comment.

### **ARTICLE 14 – FEDERAL NEIGHBORHOOD STABILIZATION PROGRAM AND MASSACHUSETTS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

14.1 Funds for this contract are provided in part by Federal Neighborhood Stabilization Program and Community Development Block Grant (CDBG) funds and any contract agreements resulting from this solicitation shall be subject to the policies and regulations of that Program.

### **ARTICLE 15 – TERMINATION DUE TO LACK OF FUNDS**

15.1 This Project and Contract Agreement shall be terminated in the event of cancellation, revocation, suspension or termination of Grant funds from funding sources.

END OF SECTION

**FORM FOR GENERAL BID**

Name of Bidder: \_\_\_\_\_

To: The City of Marlborough

The undersigned proposes to furnish all labor and materials required for completing, in accordance with the hereinafter-described specifications and addenda, all work as specified for this renovation project for the contract price specified below, subject to additions and deductions according to the terms of the specifications. All work will be completed in accordance with the Bidding Documents prepared by Buccianeri Mgt. Services, LLC, Atkinson, NH 03811. The project is located at 223 Mechanic Street, Marlborough, MA 01752

This bid includes addenda number(s) \_\_\_\_\_.

A. The proposed Contract Price is \_\_\_\_\_ dollars  
(\$\_\_\_\_\_).

**Alternate #1:** Section not used

**Alternate #2:** Section not used

B. Addenda: The Bidder acknowledges receipt of the Addenda as listed below, and has included the information shown within said Addenda in preparation of this proposal.

Addenda No. \_\_\_\_\_, dated: \_\_\_\_\_

Addenda No. \_\_\_\_\_, dated: \_\_\_\_\_

Addenda No. \_\_\_\_\_, dated: \_\_\_\_\_

Addenda No. \_\_\_\_\_, dated: \_\_\_\_\_

C. Section not used

D. The undersigned agrees that, if selected as General Contractor, they will, within five (5) days (Saturdays, Sundays and legal holidays excluded) after presentation thereof by the Awarding Authority, execute a contract in accordance with the terms of this Bid.

The undersigned hereby certifies that they are able to furnish labor that can work in harmony with all other elements of labor employed on the work and that they will comply fully with all laws and regulations applicable to wards made subject to section 44A.

The undersigned further certifies under the penalties of perjury that this Bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this

subsection, the word “person” shall mean natural person, joint venture, partnership, corporation, or other business or legal entity.

The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the Commonwealth under the provisions of section 29F of chapter 29, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of General Bidder

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title of Person Signing Bid

\_\_\_\_\_  
Business Telephone

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
Business Fax

\_\_\_\_\_  
City and State

General Bids shall be for the complete work as specified and shall include the names of Sub-Bidders and the amounts of their Sub-Bids; and the General Contractor shall be selected on the basis of such General Bids.

General Bids shall be publicly opened and read by the Awarding Authority forthwith after the time limit for filling thereof. The bid price shall be the price set forth in a clearly designated place on the bid form for that purpose.

The following information is furnished by the bidder for the information of the Awarding Authority.

If a Corporation:

Incorporated in what state \_\_\_\_\_

President \_\_\_\_\_ Treasurer \_\_\_\_\_

Secretary \_\_\_\_\_

If a foreign corporation, are you registered to do business in Massachusetts? \_\_\_\_ Yes \_\_\_\_ No

If selected for this work, you are required under M.G.L c.30 §39L to obtain from the Secretary of State, Foreign Corp. Section, State House, Boston, a certificate stating that you corporation is registered and furnish said certificate to the Awarding Authority.

If a Partnership: (Name all partners)

Partner \_\_\_\_\_ Residence \_\_\_\_\_

Partner \_\_\_\_\_ Residence \_\_\_\_\_

If an Individual:

Name \_\_\_\_\_ Residence \_\_\_\_\_

If an Individual doing business under a firm name:

Name of Firm \_\_\_\_\_

Business Address \_\_\_\_\_

Name of Individual \_\_\_\_\_ Residence \_\_\_\_\_

### **CERTIFICATION OF NON-COLLUSION**

Massachusetts General Laws, Chapter 701 of the Acts of 1983, requires that each bidder must certify as follows:

The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this section, the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

---

Signature of Person Signing Bid

---

Date

---

Company

---

### **CERTIFICATION OF TAX COMPLIANCE**

Legislation enacted by the Commonwealth of Massachusetts, effective July 1, 1983, requires that the attestation below be signed:

Pursuant to Massachusetts General Law Chapter 62C, Section 49A, I certify under penalties of perjury that I, to the best of my knowledge and belief, have filed all Local and State tax returns and paid all Local and State taxes required under the law.

---

Signature of Individual or Corporate Name

---

Date

---

Social Security Number/Federal ID



**VOTE REQUIRED IF THE CONTRACTOR IS A CORPORATION**

At a meeting of the Board of Directors of \_\_\_\_\_ duly called and held of \_\_\_\_\_, 2005, at which a quorum was present and acting throughout, the following vote was duly adopted:

VOTED: That \_\_\_\_\_, the \_\_\_\_\_ of the corporation, by and hereby is authorized to affix the corporate seal, sign and deliver in the name and on behalf of the corporation a contract with the City of Marlborough, MA for Renovations to 223 Mechanic Street in the mount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) and so to seal and execute as above a surety company bond to secure the performance of said contract and a surety company bond to secure payment for labor and materials, all in such form and on such terms and conditions as he/she, by the execution thereof, shall deem proper.

A true copy.

ATTEST

\_\_\_\_\_  
Clerk of Corporation (Corporate Seal)

Note: The above form is to be completely filled out if the Contractor is a corporation.

**CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY (EEO)	
Instructions	
<p>This certification is required pursuant to Executive Order 11246 (30 CFR 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed sub contractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or sub contract subject to the equal opportunity clause, and if so, whether it has filed all compliance reports due under applicable instructions.</p> <p>Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.</p>	
Certification by Bidder	
Name and Address of Bidder (include zip code)	
<p>1. Bidder has participated in a previous contract or sub-contract subject to the Equal Opportunity Clause.      Yes _____      No _____</p>	
<p>2. Compliance Reports were required to be filed in connection with such contract or sub contract.      Yes _____      No _____</p>	
<p>3. Bidder has filed all compliance reports due under applicable instructions, including Monthly Employment Utilization Report (257). Yes _____      No _____      None Required _____</p>	
<p>4. Have you ever been or are you being considered for sanction due to a violation of Executive Order 11246, as amended? Yes _____      No _____</p>	
Name and Title of Signer (please type)	
Signature	Date

**CERTIFICATION CONCERNING LABOR STANDARDS AND PREVAILING WAGE REQUIREMENTS**

TO: \_\_\_\_\_  
(Department, Agency, or Bureau) (Date)

\_\_\_\_\_  
c/o Project Number

\_\_\_\_\_  
Project Name

1. The undersigned, having executed a contract with \_\_\_\_\_ for the construction of the above-identified project, acknowledges that:
  - a) The Federal Labor Standards provisions for the Contract for Construction are included in the aforesaid contract;
  - b) Correction of any infractions of the aforesaid conditions, including infractions by any of his subcontractors and any lower tier subcontractors, is his/her responsibility.
2. He/She certifies that:
  - a) Neither he/she nor any firm, partnership or association in which he/she has substantial interest is designated as an ineligible contractor by the Comptroller General of the United States pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, part 5 (29 CFR, Part 5) or pursuant to Section 3(a).
  - b) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designated as an ineligible contractor pursuant to any of the aforementioned regulatory or statutory provisions.
3. He/she agrees to obtain and forward to the aforementioned recipient, within ten (10) days after the execution of any subcontract, including those executed by his subcontractors and any lower tier subcontractors, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements executed by the subcontractors.
4. He/she certifies that:
  - a) The legal name and the business address of the undersigned are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b) The undersigned is:

- ☐ A Single Proprietorship
- ☐ A Partnership
- ☐ A Corporation Organized in the State of \_\_\_\_\_
- ☐ Other Organization (describe) \_\_\_\_\_

c) The name, title, and address of the owner, partners or officers of the undersigned is/are:

NAME	TITLE	ADDRESS
_____	_____	_____
_____	_____	_____
_____	_____	_____

d) The names and addresses of all other persons, both natural and corporate, having a substantial interest in the undersigned, and the nature of the interest are (if none, so state):

NAME	ADDRESS	NATURE OF INTEREST
_____	_____	_____
_____	_____	_____
_____	_____	_____

e) The names, addresses and trade classifications of all other building construction contractors in which the undersigned has a substantial interest are (if none, so state):

NAME	ADDRESS	TRADE CLASSIFICATION
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
CONTRACTOR (print or type)

\_\_\_\_\_  
Date

By: \_\_\_\_\_

**WARNING**

The U.S. Criminal Code, Section 1010, Title 18, USC, provides in part: “Whoever...makes, passes, utters or publishes any statement, knowing the name to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both.”

**223 MECHANIC STREET RENOVATION PROJECT  
OWNER AND CONTRACTOR AGREEMENT**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_ 2010, by and between the City of Marlborough through the Marlborough Community Development Authority an urban renewal agency within the meaning of M.G.L.ch 121B and an economic development ,and industrial corporation within meaning of M.G.L. ch 121C created by special Act in 1979 (chapter 327 thereof and as amended by chapter 380 of Special Acts of 2004 and Chapter 395 of the Special Acts of 2008, whose address is 255 Main Street, Suite 212, Marlborough, MA 01752. hereinafter called the “Owner”, and \_\_\_\_\_, hereinafter called the “Contractor.”

WITNESSETH, that the Owner and the Contractor, for consideration hereafter named, agree as follows:

Article 1. SCOPE OF WORK: The Contractor shall perform all the Work required by the Contract Documents for the 223 Mechanic Street Renovation Project, prepared on June 6, 2010 by Bucchianeri Management Services, LLC, and referred to in these Contract Documents as the “Work Specifications”.

Article 2. TIME OF COMPLETION: The Contractor shall commence work under this Contract immediately upon contract signing and shall bring work to Substantial Completion no later than 60 days after the contract signing date. In addition, 100 % completion including completion of all punch list items as well as all requirements per contract must be completed no later than 90 days after the contract signing date. Damages for delays in the performance of the Work shall be in accordance with the Conditions of the Contract.

Article 3. THE CONTRACT SUM: The Owner shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order(s), the Contract

Sum of \_\_\_\_\_ XX/100

(\$ \_\_\_\_\_).

Article 4. THE CONTRACT DOCUMENTS: The following together with this Agreement, form the Contract and all are as fully apart of the Contract as if attached to this Agreement or repeated herein: Invitation to Bid, Information for Bidders, Instructions to Bidders, Form for General Bid, Additional Required Bid Forms, Supplemental General Conditions, Federal Labor Standard Provisions (General Decision MA20030002, Modification Number 26), Job Postings, and Addenda issued after execution of the Contract. Terms used in this Agreement, which are defined in the Conditions of the Contract, shall have meanings designated in those Conditions.

Article 5. REAP CERTIFICATION: Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, the undersigned certifies under the penalties of perjury that to the best of his/her knowledge and belief I am in compliance with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Article 6. **WORKERS DOCUMENTATION CERTIFICATION:** in accordance with Executive order 481 the undersigned further certifies under the penalties of perjury that the contractor shall not knowingly use undocumented workers in connection with the performance of this contract; that pursuant to federal requirements, the Contractor shall verify the immigration status of all workers assigned to such contractor without engaging in unlawful discrimination; and that it shall not knowingly or recklessly alter, falsify, or accept altered or falsified documents from any such worker(s). The Contractor understands and agrees that breach of any of these terms during the contract period may be regarded as a material breach, subjecting the Contractor to sanctions, including but limited to monetary penalties, withholding of payments, contract suspension or termination.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed.

**OWNER**

**CONTRACTOR**

\_\_\_\_\_  
MCDA An Urban Renewal Agency

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Marlborough Community Development Authority  
255 Main Street, Suite 212, Marlborough, MA 01752.

\_\_\_\_\_  
Address

By: \_\_\_\_\_  
Nancy E. Stevens, Mayor  
As Chairman of the Board of Directors,  
and not individually

By: \_\_\_\_\_  
Signature and Title

Witness: \_\_\_\_\_

Witness: \_\_\_\_\_

\_\_\_\_\_  
FID or social security number

## SUPPLEMENTAL GENERAL CONDITIONS

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1. Notice to Proceed & Pre-Construction Conference

A written Notice to Proceed shall be issued to the Contractor after receipt of the following: proof of required insurance, an EEO poster has been posted in a conspicuous place at the job site, the Contractor has designated an EEO Coordinator, the Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements has been submitted to the project manager, and the Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements has been submitted to the awarding authority. No work shall be performed by the Contractor until he has received the Notice to Proceed.

Prior to the start of construction, the Contractor, all subcontractors, Bucchianeri Management Services, LLC herein referred to and acting as the Owner's Representative/Clerk of the Works, and the Program Manager, shall attend a pre-construction conference. The conference will serve to acquaint the participants with the general plan of contract administration and requirements under which the construction operation is to proceed. The date, time and place of the conference will be furnished to the Contractor by the Program Manager.

2. Funding Sources

The project to be constructed pursuant to this Contract will be financed with assistance from the Federal Neighborhood Stabilization Program and the Massachusetts Department of Housing and community Development using federal Community Development Block Grant (CDBG) funds and is subject to all applicable Federal, State and local regulations.

3. Contract Specifications

All specifications and addenda, hereinafter enumerated or referenced in this contract, shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein set fully forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

5. Materials, Services and Facilities

- (a) It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature and all other services and facilities of every nature whatsoever necessary to execute, complete and deliver the work within the specified time.
- (b) Any work necessary to be performed after regular working hours, on Sunday or Legal Holidays, shall be performed without additional expense to the Owner.

7. Contractor's Title to Materials

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or

other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.

8. Title to Work

The title to all work completed and in the course of construction and of all material on account of which any payment has been made shall be in the Owner.

9. Express Warranty

The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Contractor also guarantees that all work will be done in a workmanlike manner, free from defects, and in conformance with any specifications mentioned in this contract.

10. Maintenance and Guarantee

The Contractor hereby guarantees that the entire work constructed by him under the contract will meet fully all requirements thereof as to quality of workmanship and of materials furnished by him. The Contractor hereby agrees to make at his/her own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein for any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with the respect to any provisions of the specifications. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the owner for the cost thereof.

11. "Or Equal" Clause

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and any materials, article or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed is, in the opinion of the Clerk of the Works, of equal substance and function. It shall not be purchased or installed by the Contractor without the Clerk of the Works written approval.

12. Surveys, Permits and Regulations

Unless otherwise expressly provided for in the specifications, the Owner will furnish to the Contractor all surveys necessary for the execution of the work.

The Contractor shall procure and pay for all permits, licenses and approvals necessary for the execution of his contract, and shall comply with the provisions of 24 CFR

85.36(h)(1)-(3) and applicable laws of the State of Massachusetts with respect to bonding or other insurance requirements.

The Contractor shall comply with all laws, ordinances, rules, orders and regulations relating to performance of the work, the protection of adjacent property and the maintenance of passageways, guard fences or other protective facilities.

13. Contractor's Obligations

The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Contract, within the time herein specified, in accordance with the provision of this Contract and said specifications and in accordance with the plans and drawings covered by this Contract any and all supplemental plans and drawings, and in accordance with the directions of the Clerk of the Works as given from time to time during the progress of the work. He shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required.

The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements and limitations of the Contract and specifications, and shall do, carry on and complete the entire work to the satisfaction of the Architect/Engineer and the Owner.

14. Weather Conditions

In the event of temporary suspension of work, or during inclement weather, or whenever the Clerk of the Works shall direct, the Contractor will, and will cause his Subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Clerk of the Works, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors so to protect his work, such materials shall be removed and replaced at the expense of the Contractor.

15. Protection of Work and Property – Emergency

The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Contract. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such damage is caused directly by errors contained in the Contract or by the Owner, or his duty authorized representatives.

In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Clerk of the Works, in a diligent manner. He shall notify the Clerk of the Works immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Clerk of the Works for approval.

Where the Contractor has not taken action but has notified the Clerk of the Works of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the Clerk of the Works.

The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 21 below.

16. Inspection

The authorized representatives and agents of the Owner, the Department of Housing and Community Development, the State, the grantee, and the federal Department of Housing and Urban Development shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

17. Reports, Records and Data

The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Owner may request concerning work performed or to be performed under this Contract. All records must be retained by the Contractor for a period of seven years from completion of the work.

18. Superintendence by Contractor

At the site in the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Clerk of the Works and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll.

19. Changes in Work

No changes in the work covered by the approved Contract Documents shall be made without having prior written approval of the Owner. Charges or credits for work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- (a) Unit bid prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of:
  - (1) Labor, including foremen.
  - (2) Materials entering permanently into the work.
  - (3) The ownership or rental cost of construction plan and equipment during the time of use on the extra work.
  - (4) Power and consumable supplies for the operation of power equipment.
  - (5) Insurance.
  - (6) Wages to be paid.

To the cost under (c) there shall be added a fixed fee to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

20. Time for Completion and Liquidated Damages (ref: **Article 5** Instructions to Bidders)

It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion of the work to be done hereunder are ESSENTIAL CONDITIONS of this Contract; and it is further mutually understood and agreed that the work embraced in this Contract shall be commenced on a date to be specified in the "Notice to Proceed."

The Contractor agrees that said work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a partial consideration for the awarding of this Contract, to pay to the Owner the amount specified in the Additional Instructions to Bidders, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the work.

The said amount of liquidated damages is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would sustain in such event and said amount shall be retained from time to time by the Owner from current periodic estimates.

It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; provided, further that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

- (a) To any preference, priority or allocation order duly issued by the Government.
- (b) To unforeseeable cause beyond the control and without the fault of negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and severe weather.

- (c) To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

Provided further, that the Contractor shall within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the Contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

It is further agreed that the owner may without cause stop the job, or cause the progress of any part thereof to delay for a period of up to 40 days without the Contractor or subcontractor having any recourse for claims for remobilization or any other costs for items, tasks or materials associated with the delay or work stoppage.

21. Construction Schedule

A Bar Chart or Gant chart type construction schedule shall be submitted for approval no later than ten (10) days following receipt of Notice to Proceed. Schedule is to indicate major milestones, critical setting dates, lead time items, etc. Construction Schedule is to be updated monthly for project meetings.

22. Correction of Work

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Clerk of the Works (Bucchianeri Management Services, LLC) who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture and methods of construction for the purposes for which they are used. Should they fail to meet his approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at his own expense. Rejected materials shall immediately be removed from the site. If, in the opinion of the Clerk of the Works (Bucchianeri Management Services, LLC) , it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Clerk of the Works shall be equitable.

The General Contractor shall provide a monetized punch list tying a direct dollar value to each item. This list is subject to review and approval of architect.

23. No Arbitration Clause

Conflicts or disputes between the Owner and Contractor and/or between the Clerk of the Works and the Contractor and/or between the Owner's Representative and the Contractor will be managed by Bucchianeri Management Services, LLC. Bucchianeri Management Services, LLC will make the final determination as to how the conflict or dispute will be addressed and resolved. There will be no arbitration means to address conflicts or disputes. The Contractor must deal with the Bucchianeri Management Services, LLC as

the only way to resolved problems or disputes. The contractor may not request or be granted any arbitration rights for this contract.

24. Subsurface Conditions Found Different

Should the Contractor encounter subsurface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, he shall immediately give notice to the Clerk of the Works (Bucchianeri Management Services, LLC) of such conditions before they are disturbed. The Clerk of the Works will thereupon promptly investigate the conditions, and if he finds that they materially differ from those shown on the plans or indicated in the specifications, he will at once make such changes in the plans and/or specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 20 of these Supplemental General Conditions.

25. Right of Owner to Terminate Contract

The Owner may terminate this Contract by providing the Contractor and the Surety with 10 days written notice specifying the reasons for termination as outlined below:

- (a) Violation of any provisions of this Contract by the Contractor or any of his/her subcontractors.
- (b) A determination by the Owner that the contractor has engaged in fraud, waste, mismanagement, misuse of funds, or criminal activity with any funds provided by this Contract.
- (c) Failure of the Contractor, for any reason, to fulfill in a timely and proper manner its obligations under this Contract including compliance with applicable federal, state or local laws or regulations, and such procedures or guidelines as may be established for the Small Cities Program by the State of Massachusetts.
- (d) Cancellation, revocation, suspension or termination by HUD of the grant agreements to the State under which the Owner's NSP and CDBG Agreement is made, or the portion thereof funding this contract.

In the event of any such termination, the Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion at the expense of the Contractor and the Contractor and his Surety shall be liable to the Owner for any excess cost occasioned by the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances and plant as may be on the site of the work and necessary therefore.

If the Owner determines that a continuation of work on the project would endanger the life, health, or safety of those working or living at or near the project site, or that immediate action is necessary to protect public funds and/or property, the Owner may suspend work or terminate this agreement by providing notice to the contractor in the form of telegram, mailgram, hand-carried letter, or other appropriate written means.

26. Payments to Contractor

- (a) Payment for this project is directly tied to the funding schedule of the funding sources. The Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month, under this Contract, but to insure the proper performance of this Contract, the Owner shall retain five percent (5%) of the amount of each estimate until final completion and acceptance of all work covered by this Contract.
- (b) The General Contractor is responsible for informing Sub Contractors of the specific amounts approved by the architect. If this amount differs from the amount of the Sub-contractor has invoiced the General Contractor, there shall NOT be a claim for direct payment levied to the City. The General Contractor is responsible for coordinating this information.
- (c) In preparing estimates, the material delivered on the site and preparatory work done may be taken into consideration.
- (d) Contractor is to provide a detailed Schedule of Values that is directly tied to available funds from each funding source. The Project Manager and Grant Administrator can assist in organizing and approving this document. This document must be submitted for approval no later than ten (10) days after receipt of Notice to Proceed.

27. Indemnification

The Contractor shall comply with the requirements of all applicable laws, rules and regulations in connection with the services of the Contractor, and shall exonerate, indemnify and hold harmless (Bucchianeri Management Services, LLC) acting as Clerk of the Works and/or the Owner's Representative, the Owner's officers, agents, and all employees from and against them, and local taxes or contributions imposed or required under the Social Security, Worker's Compensation, and Income Tax laws. Further, the Contractor shall exonerate, indemnify and hold harmless the Owner with respect to any damages, expenses or claims arising from or in connection with any of the work performed or to be performed under this Contract. This shall not be construed as a limitation of the Contractor's liability under the Contract or as otherwise provided by law.

28. Acceptance of Final Payment Constitutes Release

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner and architect of all claims and all liability to the Contractor. No payment,



however, final or otherwise, shall operate to release the Contractor or his Sureties from any obligations under this Contract or the payment bond.

29. Insurance

The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any Subcontractor to commence work on this subcontract until the insurance required of the subcontractor has been so obtained and approved.

(a) Workmen's Compensation Insurance

The Contractor shall procure and shall maintain during the life of this contract Workmen's (Worker's) Compensation Insurance as required by applicable State law for all of its employees to be engaged in work at the site of the project under this contract and, in case of any such work, sublet, the Contractor shall require the subcontractor similarly to provide Workmen's (Worker's) Compensation Insurance for all the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's (Worker's) Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this contract is not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of his/her employees as are not otherwise protected.

(b) Scope of Insurance and Special Hazards

The insurance required hereunder shall provide adequate protection for the Contractor and its subcontractors, respectively, against damage claims which may arise from operations under this contract, whether such operations be by the insured or by anyone directly or indirectly employed by it and, also against any of the special hazards which may be encountered in the performance of this contract as enumerated elsewhere in this document.

(c) Proof of Carriage of Insurance

The Contractor shall furnish the Owner with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the Owner."

(d) Builder's Risk Insurance (Fire and Extended Coverage)

Until the project is completed and accepted by the Owner, the Contractor is required to maintain Builder's Risk Insurance (fire and extended coverage) on all work in place and/or materials stored at the site. This insurance shall provide coverage for one hundred percent (100%) of the cash value of all completed construction and/or material stored for the benefit of the Owner, the Contractor, and subcontractors as their interests may appear.

(e) Owner's Protective Liability Insurance

The Contractor shall take out and furnish to the Owner and maintain during the life of this contract complete Owner's Protective Liability Insurance in amounts as specified in D below, for Bodily Injury Liability Insurance and for Property Damage Liability Insurance.

(f) Public Liability and Property Damage

The Contractor shall secure and maintain during the life of the Contract such insurance policies as will protect himself, his Subcontractors and the Owner from claims for bodily injuries, death or property damage which may arise from operations under the Contract whether such operations be by himself or any Subcontractor or anyone employed by them directly or indirectly.

- A. For insurance purposes, the site of work and/or the project sites includes not only the limited physical work areas involved but also certain other areas of operations set up for utility, sanitary, electrical, water, pollution control, disposal and cleaning purposes; to furnish materials for the work including storage and stock piles areas and all routes between and among them.
- B. Contractor and Subcontractor(s) shall provide a comprehensive general liability policy with a combined single limit provision for bodily injury and/or property damage of a minimum of \$1,000,000 written on an occurrence basis. Include XCU coverage (explosion, collapse, underground) and fire protection for property under their care, custody and control.
- C. Comprehensive Automobile Liability and Property Damage Insurance. The Contractor shall provide comprehensive automobile liability insurance with a single limit provision, written on an occurrence basis, covering all owned vehicles, hired vehicles, or non-owned vehicles for all property and property damages arising out of bodily injuries, death or destruction of property and subject to minimum limits below.
- D. The City shall be named as an additional insured on all policies of liability insurance.

The minimum limits of liability of such insurance shall be as follows:

General (Comprehensive) Liability

Bodily Injury or Death – Each Person	\$ 500,000
Bodily Injury or Death – Each Accident	\$1,000,000
Property Damage – Each Accident	\$ 500,000
Property Damage – Aggregate	\$1,000,000

Automobile and Truck Liability

Bodily Injury or Death – Each Person	\$ 500,000
Bodily Injury or Death – Each Accident	\$1,000,000
Property Damage – Each Accident	\$ 200,000

Property Damage – Aggregate

\$1,000,000

- (g) Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance

The Contract shall either (1) require each of its subcontractors to procure and to maintain during the life of the subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified herein or (2) insure the activities of its subcontractors in its policy.

If the required liability insurances are not issued in the designated amounts, the Contractor shall purchase Umbrella Insurance with a limit of \$1,000,000 and the policy's deductible must be covered by the individual policies described above.

30. Flood Disaster Protection

The owners of land subject to acquisition or improvement under this contract, and its successors or assigns, are hereby obligated to obtain and maintain, during ownership of the land which is the subject of this contract, such flood insurance as is required with respect to financial assistance for acquisition or construction purposes under section 102 (a) of the Flood Disaster Protection Act of 1973. This obligation is binding notwithstanding the fact that construction on the land which is the subject of this contract is not itself funded out of assistance provided under the Housing and Community Development Act of 1974, as amended.

31. Contract Security

The Contractor shall furnish a payment bond in an amount not less than fifty percent (50%) of the contract price or in a penal sum not less than that prescribed by State and local law, as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract.

32. Assignments

The Contractor shall not assign or subcontract the whole or any part of this Contract or any monies due or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignment in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations of services rendered or materials supplied for the performance of the work called for in this Contract.

33. Owner's Authority

The Owner or Owner's Representative shall give all orders and directions contemplated under this Contract and specifications relative to the execution of the work. The Owner or Owner's Representative shall determine the amount, quality, acceptability and fitness of the several kinds of work and materials which are to be paid for under this Contract

and shall decide all questions which may arise in relation to said work and the construction thereof. The Owner or Owner's Representative estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said Contract and specifications, the determination or decision of the Owner or Owner's Representative shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this Contract affected in any manner or to any extent by such question.

The Owner or Owner's Representative shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute.

34. Notice and Service Thereof

Any notice to any Contractor from the Owner relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at his last given address, or delivered in person to the said Contractor or his authorized representative on the work.

35. Subcontract

The Contractor will insert in any subcontracts the Federal Labor Standards Provisions contained herein and such other clauses as the Department of Housing and Urban Development may by instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

36. Interest of Member or Delegate to Congress

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

37. Other Prohibited Interests

No official of the City who is authorized in such capacity and on behalf of the City to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the City who is authorized in such capacity and on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract or any other contract pertaining to the project.

38. Suspension of Work

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

39. Access to Records

The Contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds, both CDBG and non-CDBG shares. These records will be made available for audit purposes to the Owner or any authorized representative, and will be retained for six years after final Small Cities Program audit.

40. Age Discrimination Act of 1975 (for contracts over \$2,000)

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination from receiving Federal financial assistance.

The Contractor shall comply with the provisions of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

The Age Discrimination in Employment Act prohibits arbitrary age discrimination in employment.

41. Non-Discrimination: Minority Business Enterprise

It is the policy of the State of Massachusetts and the City of Marlborough that Minority Business Enterprises (MBEs) as defined in the Code of Federal Regulations, 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of this contract. Consequently, the MBE requirements of 49 CFR Part 23 apply to this contract.

The Contractor agrees to ensure that MBEs as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of the Contract. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that MBEs have the maximum opportunity to compete for and perform contracts. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract.

42. Equal Employment Opportunity (Executive Order #11246)

This Agreement is subject to Federal Executive Order #11246, as amended, and shall be subject to HUD Equal Employment Opportunity regulation at 24 CFR Part 130 applicable to HUD assisted construction contracts. The Contractor shall cause or require to be inserted in full in any nonexempt contract and subcontract for construction work as

defined in said regulations, which is paid in full or in part with assistance provided under this Agreement, the following equal opportunity clause:

During the performance of this Contract, the Contractor agrees as follows:

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause provided by the grantee.
  - B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or age.
  - C. The Contractor will send to each labor union or representative, or workers with which he has a collective bargaining agreement, or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - D. The Contractor will furnish all information and reports required by the grantee and will permit access to his books, records, and accounts by the grantee or the State for the purpose of investigation to ascertain compliance with the requirements set forth in this clause.
  - E. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts, or federally-assisted construction contracts, and such other sanctions may be imposed and remedies invoked, or as otherwise provided by law.
  - F. The Contractor will include the foregoing so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the grantee or the state may direct as a means of enforcing such provisions, including sanctions for noncompliance.
43. Section 3 of the Housing and Urban Development Act of 1968
- A. The work to be performed under this Contract is part of a project assisted under the Massachusetts Community Development Block Grant (MCDBG) which

provides federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project award to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

- B. The parties to this Contract will comply with the provisions of said Section 3. The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
  - C. The Contractor will send to each labor organization, or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
  - D. The Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon finding that the subcontractor is in violation of these regulations. The Contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of these regulations and will not let any subcontractor begin work before providing a preliminary statement of ability to comply with the requirements of these regulations.
  - E. Compliance with the provisions of Section 3 shall be a condition of the federal financial assistance provided to the project, binding upon the grantee for such assistance, your successors and assignees. Failure to fulfill these requirements shall subject you, acting as grantee, your contractors and subcontracts, your successors and assignees to those sanctions specified by the grant agreement document through which federal assistance is provided, and to such sanctions as are specified.
44. Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order #11246)
- A. The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
  - B. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation in each trade:	6.9%
Goals for female participation in each trade:	6.9%

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor is also subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the Contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- C. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the Subcontractor, employer identification number of the Subcontractor, estimated dollar amount of the subcontract; and the geographical area in which the contract is to be performed.

45. Non-Discrimination under Title VI of the Civil Rights Act of 1964

The Contractor shall adhere to the requirements set forth in Title VI of the Civil Rights Act of 1964 (Public Law 88-352) and the regulation issued pursuant thereto by HUD (24 CFR Part 1); Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), as amended; Section 109 of the Housing and Community Development Act of 1974 and the HUD regulations issued pursuant thereto (24 CFR 570.601); Federal Executive Order #11063, as amended by Executive Order #12259 and the HUD regulations issued pursuant thereto (24 CFR 107); the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and DECD guidelines, procedures, or regulations.

46. Affirmative Action for Handicapped Workers (Section 504 of the Rehabilitation Act of 1973)

The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all



employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

The Contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ applicants for employment, and the rights of applicants and employees.

The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of Section 504 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

47. Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

- A. The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment or otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veteran status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- B. The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this Contract and those which occur during the performance of this Contract, including those not generated by the Contract and including those occurring at an establishment of the Contractor other than the one wherein the Contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of \$10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs d and e.
- C. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other

recruitment source of effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive Orders of regulations regarding nondiscrimination in employment.

- D. The reports required by paragraph b of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of nondisabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this Contract identifying data for each hiring location. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the Contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.
- E. Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system when it is no longer bound by this contract clause.

This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, Puerto Rico, Guam and the Virgin Islands.

The provisions of paragraph b, c, d, and e of this clause do not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

As used in this clause: (1) "All suitable employment openings" including, but not limited to, openings which occur in the following job categories: production and nonproduction, plant and office, laborers and mechanics, supervisory and nonsupervisory, technical, and executive, administrative and professional openings, are compensated on a salary basis of less than \$25,000 per year. This term includes full time employment, temporary employment of more than three days' duration, and part-time employment. It does not

include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution.

Under the most compelling circumstances, an employment opening may not be suitable for listing, including such situations where the needs of the government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or *where* the requirement of listing would otherwise not be for the best interest of the government.

"Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

48. Miscellaneous Provisions and Requirements Relating to Massachusetts Community Development Block Grant Funding

The materials that follow including, but not limited to, Anti-Kickback Act Regulations, Section 3 and Segregated Facilities, Equal Employment Opportunity, (General Wage Decision # CT960001, Modifications 0-4)), and wage and workforce reporting requirements relate to the Small Cities Grant which is the source of funding for this Contract. The Contractor shall observe and follow the requirements specified within these materials, and elsewhere in this Document, during and following the period of the contract, as applicable. These materials and provisions shall become an integral part of the Contract Agreement between the Contractor and the City.

49. Termination of Contract

The Owner may suspend or terminate this Contract by providing the recipient with ten (10) days written notice for reasons outlined as follows:

1. Failure of the Grantee, for any reason, to fulfill in a timely and proper manner its obligations under this Contract including compliance with applicable federal, state *or* local laws or regulations, and such procedures or guidelines as may be established for the Massachusetts Small Cities Program;
2. Cancellation, revision, suspension or termination by HUD of the grant agreements to the State under which the Owners Small Cities Assistance Agreement is made, or the portion thereof funding this contract.

50. Continued Use of Property

The Owner reserves the right to continue to use the property for purposes of maintenance and accessibility for the temporary storage and use of a mobile home or trailer to house occupants(s) who have been temporarily relocated for the purposes of this project throughout the renovations.

51. Environmental Requirements

The Contractor shall comply, where applicable, with: federal Executive Order 11988. Floodplain Management, May 24, 1977 (42 FR 26951 et. seq.) particularly section 2 (a);

the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.), as amended, particularly section 307 (c) and (d) (16 U.S.C. 1456 (c) and (d); the Safe Water Drinking Act of 1974 (42 U.S.C. 201, 300 (f) et seq., and 21 U.S.G. 349), as amended; the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536; the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7 (b) and (c) (16 U.S.C. 1278 (b) and (c); the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, particularly section 176 (c) and (d) (42 U.S.C. 7506 (c) and (d)); HUD Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); "The American Standard Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," Number A-117.4-R 1971, subject to the exceptions contained in 41 CFR 101-19-604; and any corresponding provisions of State and local laws and regulations. The Contractor shall also comply, where applicable, with the National Environmental Policy Act of 1969, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, Flood Disaster Protection Act of 1973, National Flood Insurance Act of 1968, and Protection of Wetlands Laws.

52. Historic Preservation

The Contractor shall, in the performance of environmental assessments under the National Policy Act, comply with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), federal Executive Order 11593, and the Preservation of Archaeological and Historic Data Act of 1966 (17 U.S.C. 469 a-1 et seq.), by (a) consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the proposed activity, and (b) complying with all requirements established by HUD to avoid or mitigate adverse effects upon such properties.

53. Compliance with Air and Water Acts (for contracts exceeding \$100,000)

In addition to the foregoing requirements, all nonexempt Contractors and Subcontractors shall furnish to the Owner, the following:

- A. A stipulation by the Contractor or Subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the Contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the

Contract, is under consideration to be listed on the EPA List of Violating Facilities.

- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such actions as the Government may direct as a means of enforcing such provisions.

54. Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention

- A. Lead-Based Paint Hazards (applicable to contracts for construction or rehabilitation of residential structures)

The construction or rehabilitation of residential structures is subject to the HUD-Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

55. Compliance with the Massachusetts Community Development Block Grant Assistance Agreement

Unless modified or changed by any special terms or conditions set forth in the Assistance Agreement, all activities authorized by this Contract shall be subject to and performed in accordance with the provisions of said Assistance Agreement, and all applicable federal, state, and local laws and regulations, including but not limited to those cited within the said Agreement, and any applicable regulations issued by HUD published in 24 CFR Part 570, as may be amended from time to time, and any procedures and guidelines as may be established by Massachusetts Small Cities Program.

56. Interest of Contractor and Employees

The Contractor covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this contract, no person having any such interest shall be employed. Further, the Contractor shall adhere to the provisions of the Hatch Act (5 U.S.C. 1501 et seq.) which limits political activities by employees whose principal employment is in connection with an activity which is financed in whole or in part by federal funds.

57. Statement - Political Activity Prohibited

None of the funds, materials, property or services provided directly or indirectly under this Contract may be used for any partisan political activity or to further the election or defeat of any candidate for public office.

58. Statement - Lobbying Prohibited

None of the funds provided under this Contract shall be used for publicity purposes designed to support or defeat legislation pending before the Congress.

59. Sales Tax

The materials and equipment purchased for permanent installation in the work of this Project are exempt from the Sales and Use Tax of the State of Massachusetts. The Contractor shall comply with all state requirements pertaining to this exemption.

60. Grant Close-out Procedures

The Owner reserves the right to issue procedures to close out the Grant Project, the observance of which would be mandatory.

61. Rights Reserved

The Owner reserves the right to change policy expounded herein due to policy changes dictated by Federal or State agencies.

62. Severability

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

63. Availability of Funds

The compensation provided by this agreement is subject to the continued availability of federal funds for the Neighborhood Stabilization Funds and the Massachusetts Community Development Block Grant, and to the continued eligibility of the State and the Owner to receive such funds.

64. Confidentiality

The Contractor will protect the privacy of, and respect the confidentiality of information provided by, program participants, consistent with applicable federal and state regulations.

65. Responsibility to the Public, Wage Rates

A. Laws to be Observed

The Contractor shall keep him/herself fully informed of all existing and future State and National laws and Municipal ordinances and regulations in any manner affecting those engaged or employed in the work or the materials used or employed in the work, or in any way affecting the conduct of the work, and all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same and of all provisions required by law to be made a part of this Contract, all of which provisions are hereby incorporated by reference and made a part thereof. If any discrepancy or inconsistency is discovered in the plans, drawings or specifications or Contract for this work in relation to any such law, ordinance, regulation, order or decree, he shall forthwith report the same to the Department in writing. S/He shall cause all his/her agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees.

B. Anti-Boycott Covenant (Executive Order #130)

Supplemental General Conditions  
223 Mechanic Street Renovation Project

The Contractor warrants, represents and agrees that during the time this Contract is in effect, neither it or any affiliated company, as hereafter defined, participates in or cooperates with an international boycott, as defined in Section 9999 (b), (3) and (4) of the Internal Revenue Code of 1954, as amended. If there shall be a breach in the warranty, representation and agreement contained in this paragraph, then without limiting such other rights as it may have the City shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51% of the Ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51% of the ownership interests of the Contractor or which directly or indirectly owns at least 51% of the ownership interests of the Contractor.

66. Sign

A project sign displaying information related to the *work* contemplated under this Contract shall be fabricated by the Contractor and erected at a location acceptable to the Owner. The project sign shall be constructed of the materials and to the dimensions as prescribed by the Owner. No separate payment shall be made for this work, the costs of which shall be deemed included in the various unit and lump sum prices contained in the Bid.

## **SPECIAL SUPPLEMENTAL GENERAL CONDITIONS**

### **1.0 SUBCONTRACTS**

- A. The Contractor shall not execute an agreement with any subcontractor to perform any work included in this Contract until he/she has received written approval of such subcontractor from the Owner and has submitted a Certification of Non-Collusion from the subcontractor in substantially the form shown in the section on Contract Forms.
- B. The Contractor shall, for any subcontract he/she executes for work under this Agreement, include in the subcontract document the labor provisions and wage rate provisions as stated in the Wage Rate Requirements section of this document. Subcontractors shall be bound by the same labor standards and affirmative action provisions as the General Contractor. All subcontractors must complete and sign a certification concerning Labor Standards and must submit a certified weekly payroll to the Owner.

### **2.0 REVIEW BY THE OWNER**

- A. The Owner, and its authorized representative, shall at all times be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions and other relevant data and records pertaining to this Contract.

### **3.0 CLAIMS FOR EXTRA COST**

- A. If the Contractor claims that any instructions involve extra cost or extension of time, he/she shall, before proceeding to execute the work, submit his/her written request to the Owner, detailing the basis of his/her objections. No claim for any such extra cost or extension of time will be considered unless so made.
- B. Any discrepancies which may be discovered between actual conditions and those represented by the Contract shall at once be reported to the Owner and the work shall not proceed except at the Contractor's risk, until written instructions have been received by him/her from the Owner.

**END OF SECTION**



## **WAGE RATE REQUIREMENTS**

### Minimum Wage Rates

1. The following schedules furnish the minimum hourly rates of wages and health and welfare fund contributions required to be paid to the various laborers and mechanics employed directly upon the site of the Work embraced by this specification, the rates having been determined by the Deputy Director of the Division of Occupational Safety of the Massachusetts Department of Labor and Workforce Development under the provisions of the Massachusetts General Laws, Chapter 149, Sections 26 to 27H, inclusive, as amended and the U.S. Department of Housing and Urban Development, Office of Labor Relations.
2. Any class of laborers and mechanics (including apprentices) not listed in the schedules which will be employed on this Contract shall be classified or reclassified, conformable to the schedules.
3. While the wage rates shown are the minimum rates required by these Contract Documents to be paid during the life of the Contract, this is not a representation that labor can be obtained at these rates. It is the responsibility of Bidders to inform themselves as to local conditions and prospective changes or adjustments of wage rates. No increase in the Contract Price shall be allowed or authorized on account of the payment of wage rates in excess of those listed herein.
4. The Contractor shall submit weekly certified payrolls to the Awarding Authority in compliance with MGL Chapter 149, Section 27B. The Contractor will also submit Form WH-347 issued by the U.S. Department of Labor to the Awarding Authority on a weekly basis.
5. The Contractor shall post at the site of the Project a schedule showing all determined minimum wage rates for the various classes of laborers and mechanics to be engaged in Work on the Project under this Contract and all deductions, if any, required by law to be made from unpaid wages actually earned by the laborers and mechanics so engaged.
6. Hours of employment shall be as provided by the MGL Chapter 149, Section 30.
7. The Contractor shall pay to any police officer regularly or specially employed the prevailing rate of wages paid to regular police officers in the municipality.

END OF SECTION